



THE CITY OF NEW YORK  
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March 10, 2022

**BY ECF**

Honorable Lorna G. Schofield  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: Richard Rosario v. City of New York, et al.,  
18 Civ. 4023 (LGS)

Your Honor:

I am one of the attorneys assigned to represent the defendants in the above-referenced action. Defendants write in response to plaintiff's objections to Magistrate Judge Aaron's Report and Recommendation dated January 27, 2023 (the "R&R"). (ECF 522).

By way of background, this case was tried before a jury, which reached a verdict on August 11, 2022. (ECF No. 479). On October 7, 2022, plaintiff filed an application for prevailing party fees and costs. (ECF Nos. 508-511). On November 15, 2022, defendants filed their opposition to plaintiff's fee application. (ECF Nos. 517-518). On December 2, 2022, plaintiff filed his reply in support of his fee application. (ECF No. 521). On January 27, 2022, Magistrate Judge Aaron issued his report and recommendation which recommended that plaintiff's application be granted in part and denied in part. (ECF No. 522). On February 10, 2023, plaintiff filed objections to the R&R pursuant to Fed. R. Civ. P. 72.

At the outset, defendants apologize for the lateness of this response, and respectfully request the Court accept this brief letter response *nunc pro tunc*.<sup>1</sup> In short, plaintiff's objections to the R&R amount to nothing more than a recitation of their arguments in support of their fee application, and do not justify modifying or rejecting the R&R. While the Court must review the R&R *de novo*, see McConnell v. ABC-Amega, Inc., 338 F. App'x 24, 26 (2d Cir. 2009), plaintiff has not justified the modification or rejection of the R&R. Magistrate Judge Aaron undertook a thorough and comprehensive review of the record in this matter and recommended reasonable,

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<sup>1</sup> The undersigned was on parental leave from February 6, 2023 until March 6, 2023.

moderate reductions to plaintiff's application. In reaching this recommendation, Magistrate Judge Aaron carefully considered all of the appropriate factors bearing on what a "reasonable, paying client" would be willing to spend to achieve the results reached in this case. See, *Arbor Hill Concerned Citizens Neighborhood Assn. v. County of Albany*, 522 F.3d 182, 190 (2d Cir. 2007); *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). Indeed, the approximately \$2.7 million dollar award recommended by the Magistrate Judge represents an award of more than 50% of the value of the jury award to the plaintiff himself.

For all of the reasons set forth in defendants' opposition to plaintiff's motion, in the R&R, and herein, defendants respectfully submit that the plaintiff has not established that the Court should modify or reject the R&R.

Defendants thank the Court for its consideration.

Respectfully submitted,



/s/

Hannah V. Faddis

*Senior Counsel*

cc: VIA ECF  
*All Counsel of Record*